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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------|------------------------|
| 10/606,711 | 06/26/2003 | Stephen D. Pacetti | 50623.266 | 5769 |
| 7590 05/14/2007 | | | | |
| Victor Repkin Squire, Sanders & Dempsey L.L.P. Suite 300 One Maritime Plaza San Francisco, CA 94111 | | | | |
| | | | EXAMINER AHMED, SHEEBA | |
| | | | ART UNIT 1773 | PAPER NUMBER |
| | | | MAIL DATE 05/14/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/606,711

Applicant(s)

PACETTI, STEPHEN D.

Examiner

Sheeba Ahmed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12-20 and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-20, and 22-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 5, 2007 has been entered.

Response to Amendments

2. Amendments to claims 1, 12, and 22 have been entered in the above-identified application. Claims 11 and 21 are canceled. Claims 1-10, 12-20, and 22-29 are now pending.

Claim Objections

3. Claims 10 and 20 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-10, 12-20, and 22-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Hossainy et al. (US 6,926,919 B1).

Hossainy et al. disclose a coating for an implantable medical device wherein the coating comprises a hydrophobic and hydrophilic component (Column 2, lines 35-40). The mass ratio between the hydrophilic and hydrophobic polymers in the coating can be typically between about 1:100 and 1:9 (Column 3, lines 16-21). A specific embodiment discloses drug eluting vascular stents having a coating including a blend of a hydrophobic and hydrophilic polymer and treating the coating with a stimulus for enriching a region close to the outer surface of the coating with a hydrophilic polymer such that the region of the coating close to the outermost surface of the stent has a higher content of the hydrophilic component than the hydrophobic component (Column 2, lines 12-40). The coating further comprises an optional primer layer and an optional topcoat layer (Column 2, lines 42-60). Poly(ethylene-co-vinyl alcohol) is one example and it can be used to fabricate the topcoat or primer layers as well. Other examples

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include the list given in Columns 3 and 4. All limitations of claims 1-10, 12-20, and 22-29 are recited in the above reference.

Response to Arguments

5. Applicant's arguments filed on February 5, 2007 have been fully considered but they are not persuasive. Applicants traverse the rejection of the claims under 35 U.S.C. 102(e) as being anticipated by Hossainy et al. (US 6,926,919 B1) and submit there is no description or teaching in Hossainy of a coating that includes a first layer having a hydrophobic polymer and a hydrophilic or amphiphilic polymer having a mass ratio between about 49:1 and about 19:1. The Examiner disagrees. As pointed out above in paragraph No. 4, Column 3, lines 16-21 specifically states that the mass ratio between the hydrophilic and hydrophobic polymers in the coating can be typically between about 1:100 and 1:9.


Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheeba Ahmed whose telephone number is (571)272-1504. The examiner can normally be reached on Monday-Friday from 6am to 2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571)272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Sheeba Ahmed
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April 18, 2007